

REMARKS

By this paper, claims 2 and 8 have been amended and claims 9-27 have been canceled. Accordingly, claims 1, 2, 4, 7, 8 and 28-33 are pending.

In the outstanding final Office action dated December 22, 2006, claims 1, 2, 4, 7, 8 and 28-33 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. In particular, claim 1 was identified as reciting insufficient antecedent basis and the Examiner suggested amending the claim to recite --attaching a sensor to a graft; attaching a marker to the graft;--.

Moreover, the Examiner suggested amending claim 8 to recite "comprising placing a single folded section." Accordingly, claims 1 and 8 have been amended as suggested by the Examiner. It is respectfully requested that such amendments to claims 1 and 8 be entered so as to limit the matters which may be at issue should an appeal be necessary.

Moreover, in the outstanding final Office action, claim 2 was rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. In particular, the Examiner stated that the recitation of "the H-shape is considered new matter since there is no support for having the H shape prior to and following folding portions of the graft over the sensor." It is respectfully submitted, however, that claim 2 satisfies the requirements of § 112, first paragraph. Notably, claim 2 does not require a particular order, but rather recites that the graft is configured to define an H-shape as part of a method of protecting a sensor attached to a graft. That is, the mere recitation or listing of the steps in a particular order does not necessarily imply that the steps must be carried out in that order and in fact, all limitations or steps of a process or method claims can be considered to be taking place simultaneously.

Clearly, the specification of the present application provides support for configuring the graft to

define an H-shape and thus, it is respectfully submitted that claim 2 does indeed satisfy the requirements of § 112, first paragraph.

Moreover, in the final Office action, claims 1, 2, 4, 7, 8, 28-30 and 33 were rejected under 35 U.S.C. § 102(e) as being anticipated by Wolinsky et al. (6,840,956) and claims 1, 2, 4, 7, 8 and 28-33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wolinsky et al. in view of Quiachon et al. (5,749,920). In so rejecting the claims, the Examiner stated that Wolinsky et al. discloses the use of markers on an implant at Column 6, lines 13-16 but does not show such a feature in the reference. The Examiner then further stated with regard to the Wolinsky et al. patent that "inherently the markers will be covered, since they are present on a graft surface and as the entire graft is seen folded over itself, inherently it will cover the markers, wherever they are on the graft, see Fig. 3A."

However, it is respectfully submitted that a close review of the Wolinsky et al. patent reveals in addition to being silent as to the specific placement of the markers, the Wolinsky patent is also silent as to whether such markers are covered by folded portions of a graft. Furthermore, it is clear from Figs. 3A and 3B that the entire graft is not folded over itself as is suggested by the Examiner. That is, various portions of graft 14 of Wolinsky et al. are not covered by other folded sections of the graft. Accordingly, since the Wolinsky patent neither contemplates nor discloses a method involving folding portions of a graft to cover a sensor and a marker, it is respectfully submitted that claim 1 as well as its dependent claims 2, 4, 7, 8 and 28-33 recite subject matter which is neither anticipated nor rendered obvious by the cited art. Additionally, since the Wolinsky et al. patent is silent regarding specific placement of markers on a graft, it is respectfully submitted that the cited art does not teach the subject matter recited

in at least claims 29 and 31 which are specific to the placement of a marker. Therefore, it is respectfully requested that claim 1 as well as its dependent claims be passed to issuance.

CONCLUSION

Applicants have attempted to completely respond to the outstanding Office action. In view of the above amendments and remarks, Applicants respectfully request that the application be reconsidered, the claims allowed and the application passed to issue.

Respectfully submitted,

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